



PRELIMINARY DRAFT
No. 3260

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2012 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 4-22-2-37.1.

Synopsis: Voiding of certain Medicaid rules. Eliminates emergency rulemaking for the office of the secretary of family and social services (office) or the office of Medicaid policy and planning concerning: (1) federal Medicaid waiver program provisions; and (2) federal programs administered by the office. Voids a final rule and emergency rules concerning the following: (1) five percent reduction in Medicaid reimbursement for chiropractic and podiatric services; (2) five percent reduction of Medicaid reimbursement for speech therapists, audiologists, optometrists, opticians, independent laboratory providers, independent radiology providers, and freestanding renal dialysis clinics; and (3) reduction in Medicaid dispensing fee from \$4.90 to \$3.00.

Effective: Upon passage.



A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.229-2011,
2 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking
4 action resulting in any of the following rules:

5 (1) An order adopted by the commissioner of the Indiana
6 department of transportation under IC 9-20-1-3(d) or
7 IC 9-21-4-7(a) and designated by the commissioner as an
8 emergency rule.

9 (2) An action taken by the director of the department of natural
10 resources under IC 14-22-2-6(d) or IC 14-22-6-13.

11 (3) An emergency temporary standard adopted by the
12 occupational safety standards commission under
13 IC 22-8-1.1-16.1.

14 (4) An emergency rule adopted by the solid waste management
15 board under IC 13-22-2-3 and classifying a waste as hazardous.

16 (5) A rule, other than a rule described in subdivision (6), adopted
17 by the department of financial institutions under IC 24-4.5-6-107
18 and declared necessary to meet an emergency.

19 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
20 department of financial institutions and declared necessary to
21 meet an emergency under IC 24-4.5-6-107.

22 (7) A rule adopted by the Indiana utility regulatory commission to
23 address an emergency under IC 8-1-2-113.

24 (8) An emergency rule adopted by the state lottery commission
25 under IC 4-30-3-9.

26 (9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the
27 executive board of the state department of health declares is
28 necessary to meet an emergency.

29 (10) An emergency rule adopted by the Indiana finance authority
30 under IC 8-21-12.

31 (11) An emergency rule adopted by the insurance commissioner



- 1 under IC 27-1-23-7 or IC 27-1-12.1.
2 (12) An emergency rule adopted by the Indiana horse racing
3 commission under IC 4-31-3-9.
4 (13) An emergency rule adopted by the air pollution control
5 board, the solid waste management board, or the water pollution
6 control board under IC 13-15-4-10(4) or to comply with a
7 deadline required by or other date provided by federal law,
8 provided:
9 (A) the variance procedures are included in the rules; and
10 (B) permits or licenses granted during the period the
11 emergency rule is in effect are reviewed after the emergency
12 rule expires.
13 (14) An emergency rule adopted by the Indiana election
14 commission under IC 3-6-4.1-14.
15 (15) An emergency rule adopted by the department of natural
16 resources under IC 14-10-2-5.
17 (16) An emergency rule adopted by the Indiana gaming
18 commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3,
19 IC 4-33-4-14, IC 4-33-22-12, or IC 4-35-4-2.
20 (17) An emergency rule adopted by the alcohol and tobacco
21 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or
22 IC 7.1-3-20-24.4.
23 (18) An emergency rule adopted by the department of financial
24 institutions under IC 28-15-11.
25 (19) An emergency rule adopted by the office of the secretary of
26 family and social services under IC 12-8-1-12.
27 (20) An emergency rule adopted by the office of the children's
28 health insurance program under IC 12-17.6-2-11.
29 (21) An emergency rule adopted by the office of Medicaid policy
30 and planning under IC 12-15-41-15.
31 (22) An emergency rule adopted by the Indiana state board of
32 animal health under IC 15-17-10-9.
33 (23) An emergency rule adopted by the board of directors of the
34 Indiana education savings authority under IC 21-9-4-7.
35 (24) An emergency rule adopted by the Indiana board of tax
36 review under IC 6-1.1-4-34 (repealed).
37 (25) An emergency rule adopted by the department of local
38 government finance under IC 6-1.1-4-33 (repealed).
39 (26) An emergency rule adopted by the boiler and pressure vessel
40 rules board under IC 22-13-2-8(c).
41 (27) An emergency rule adopted by the Indiana board of tax
42 review under IC 6-1.1-4-37(l) (repealed) or an emergency rule
43 adopted by the department of local government finance under
44 IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.
45 (28) An emergency rule adopted by the board of the Indiana
46 economic development corporation under IC 5-28-5-8.



- 1 (29) A rule adopted by the department of financial institutions
2 under IC 34-55-10-2.5.
- 3 (30) A rule adopted by the Indiana finance authority:
4 (A) under IC 8-15.5-7 approving user fees (as defined in
5 IC 8-15.5-2-10) provided for in a public-private agreement
6 under IC 8-15.5;
7 (B) under IC 8-15-2-17.2(a)(10):
8 (i) establishing enforcement procedures; and
9 (ii) making assessments for failure to pay required tolls;
10 (C) under IC 8-15-2-14(a)(3) authorizing the use of and
11 establishing procedures for the implementation of the
12 collection of user fees by electronic or other nonmanual
13 means; or
14 (D) to make other changes to existing rules related to a toll
15 road project to accommodate the provisions of a public-private
16 agreement under IC 8-15.5.
- 17 (31) An emergency rule adopted by the board of the Indiana
18 health informatics corporation under IC 5-31-5-8.
- 19 (32) An emergency rule adopted by the department of child
20 services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or
21 IC 31-27-4-3.
- 22 (33) An emergency rule adopted by the Indiana real estate
23 commission under IC 25-34.1-2-5(15).
- 24 (34) A rule adopted by the department of financial institutions
25 under IC 24-4.4-1-101 and determined necessary to meet an
26 emergency.
- 27 (35) An emergency rule adopted by the state board of pharmacy
28 regarding returning unused medication under IC 25-26-23.
- 29 (36) An emergency rule adopted by the department of local
30 government finance under IC 6-1.1-12.6 or IC 6-1.1-12.8.
- 31 ~~(37) An emergency rule adopted by the office of the secretary of~~
32 ~~family and social services or the office of Medicaid policy and~~
33 ~~planning concerning the following:~~
34 ~~(A) Federal Medicaid waiver program provisions:~~
35 ~~(B) Federal programs administered by the office of the~~
36 ~~secretary.~~
- 37 (b) The following do not apply to rules described in subsection (a):
38 (1) Sections 24 through 36 of this chapter.
39 (2) IC 13-14-9.
- 40 (c) After a rule described in subsection (a) has been adopted by the
41 agency, the agency shall submit the rule to the publisher for the
42 assignment of a document control number. The agency shall submit the
43 rule in the form required by section 20 of this chapter and with the
44 documents required by section 21 of this chapter. The publisher shall
45 determine the format of the rule and other documents to be submitted
46 under this subsection.



1 (d) After the document control number has been assigned, the
 2 agency shall submit the rule to the publisher for filing. The agency
 3 shall submit the rule in the form required by section 20 of this chapter
 4 and with the documents required by section 21 of this chapter. The
 5 publisher shall determine the format of the rule and other documents
 6 to be submitted under this subsection.

7 (e) Subject to section 39 of this chapter, the publisher shall:

8 (1) accept the rule for filing; and

9 (2) electronically record the date and time that the rule is
 10 accepted.

11 (f) A rule described in subsection (a) takes effect on the latest of the
 12 following dates:

13 (1) The effective date of the statute delegating authority to the
 14 agency to adopt the rule.

15 (2) The date and time that the rule is accepted for filing under
 16 subsection (e).

17 (3) The effective date stated by the adopting agency in the rule.

18 (4) The date of compliance with every requirement established by
 19 law as a prerequisite to the adoption or effectiveness of the rule.

20 (g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,
 21 IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in
 22 subsections (j), (k), and (l), a rule adopted under this section expires
 23 not later than ninety (90) days after the rule is accepted for filing under
 24 subsection (e). Except for a rule adopted under subsection (a)(13),
 25 (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting
 26 another rule under this section, but only for one (1) extension period.
 27 The extension period for a rule adopted under subsection (a)(28) may
 28 not exceed the period for which the original rule was in effect. A rule
 29 adopted under subsection (a)(13) may be extended for two (2)
 30 extension periods. Subject to subsection (j), a rule adopted under
 31 subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited
 32 number of extension periods. Except for a rule adopted under
 33 subsection (a)(13), for a rule adopted under this section to be effective
 34 after one (1) extension period, the rule must be adopted under:

35 (1) sections 24 through 36 of this chapter; or

36 (2) IC 13-14-9;

37 as applicable.

38 (h) A rule described in subsection (a)(8), (a)(12), (a)(19), (a)(20),
 39 (a)(21), **or** (a)(29) **or** ~~(a)(37)~~ expires on the earlier of the following
 40 dates:

41 (1) The expiration date stated by the adopting agency in the rule.

42 (2) The date that the rule is amended or repealed by a later rule
 43 adopted under sections 24 through 36 of this chapter or this
 44 section.

45 (i) This section may not be used to readopt a rule under IC 4-22-2.5.

46 (j) A rule described in subsection (a)(24) or (a)(25) expires not later



1 than January 1, 2006.

2 (k) A rule described in subsection (a)(28) expires on the expiration
3 date stated by the board of the Indiana economic development
4 corporation in the rule.

5 (l) A rule described in subsection (a)(30) expires on the expiration
6 date stated by the Indiana finance authority in the rule.

7 (m) A rule described in subsection (a)(5) or (a)(6) expires on the
8 date the department is next required to issue a rule under the statute
9 authorizing or requiring the rule.

10 SECTION 2. [EFFECTIVE UPON PASSAGE] (a) **The following**
11 **are void:**

12 (1) **405 IAC 1-11.5-2(g).**

13 (2) **LSA Document # 11-379(E).**

14 (3) **LSA Document # 11-382(E).**

15 **The publisher of the Indiana Administrative Code and the Indiana**
16 **Register shall remove the provisions described in subsection (a)(1)**
17 **from the Indiana Administrative Code.**

18 (b) **This SECTION expires December 31, 2012.**

19 SECTION 3. **An emergency is declared for this act.**

